

Application Number 10/665,086 (Schroeder) GAU 2837 Amendment after Final Rejection continued 4 of 7

Remarks

Claims 1-32 were pending in this application.

Claims 1-13, and 16-31 were allowed.

Claims 14, 15, and 32 were rejected under 35 U.S.C. § 112, ¶ 1.

Claims 14, 15, and 32 were rejected under 35 U.S.C. § 102 (b).

Applicant has read and considered the comments by the examiner, and respectfully requests reconsideration and allowance of claims 14, 15, and 32, as amended.

Rejection of Claims 14, 15, and 32 under 35 U.S.C. § 112, ¶ 1

Claims 14, 15, and 32 were rejected under 35 U.S.C. § 112, ¶ 1 as failing to comply with the written description requirement. In particular, the phrase "*at an angle predetermined by the preference of the person playing said instrument*" was singled out as not being taught in the specifications.

Applicant has amended claims 14, 15, and 32 to further clarify the claims and remove the related phrases that may not have been taught in the specifications. The amendments to the claims were made to simply clarify what had been in the claims as originally worded and therefore are not narrowing amendments that would create any type of prosecution history estoppel. It is believed that the grounds for any rejection of these claims under 35 U.S.C. § 112, ¶ 1 have been removed, thus claims 14, 15, and 32 should no longer be rejected under 35 U.S.C. § 112, ¶ 1.

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Rejection of Claims 14, 15, and 32 under 35 U.S.C. 102 (b)

Claims 14, 15, and 32 were rejected under 35 U.S.C. § 102 (b) as being anticipated by LoJacono *et al*, (U.S. Patent No. 5,481,956). Applicant respectfully traverses a rejection on this basis.

LoJacono invention is titled "*apparatus and method of tuning guitars and the like*". Further, page 6 of LoJacono states: "Accordingly, the dual end adjustment of the strings, as disclosed herein, allows for the first time a defined length of string to be positioned longitudinally relative to the *fixed frets* and their corresponding intervals."

LoJacono offers an apparatus and method of tuning an instrument that has fixed frets and thus a fixed fingerboard topology. The sole purpose of the fine-adjustable bridge or nut complex is the fine adjustment of the strings for use with a fretted string instrument promising better intonation, all without any adjustment of the fingerboard topology.

LoJacono does not change the fingerboard topology. In the contrary: LoJacono tries to preserve the fingerboard topology determined by the position of the fixed frets.

Applicant's invention discloses this very altered fingerboard topology. It is not an apparatus or method of tuning but any means.

LoJacono's purpose, as well as result, is completely different from those of applicant's invention.

Thus, LoJacono does not disclose the invention set forth in claims 14, 15, and 32. Accordingly, the rejection of claims 14, 15, and 32 under 35 U.S.C. § 102 (b) should be removed. Thus, in view of the amendments to claims 14, 15, and 32 to remove the examiner's rejection under 35 U.S.C. § 112, ¶ 1, claims 14, 15, and 32 should now be allowable.

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Conclusion

In view of the foregoing amendments and remarks, as well as the previous allowance of claims 1-13 and 16-31, it is respectfully submitted that all of the claims now pending in the application meet the requirements of 35 U.S.C. § 112, ¶ 1 and 35 U.S.C. § 102 (b) and the application is in condition for allowance. The examiner is therefore respectfully requested to reconsider and allow the claims presented for reconsideration herein.

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Conditional Request for Constructive Assistance

Should the examiner deem that any further amendment is desirable to place this application in condition for allowance, Applicant respectfully requests the constructive assistance and suggestions of the examiner pursuant to M.P.E.P. § 2173.02 and § 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

An additional 1 month extension fee of \$60 is included via Credit Card Payment Form.

Date: February 2, 2006

Respectfully submitted,

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Certificate of Facsimile Transmission

I certify that on the date below I will fax this communication, and any attachments if, to Group Art Unit 2837 of the Patent and Trademark Office at the following number: 571 273 8300

Date: February 2, 2006

Inventor's Signature: Thomas Schroeder